



Comptroller General
of the United States
Washington, D.C. 20548

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Decision

Matter of: Vertin Valuation Services Corporation

File: B-260304

Date: June 13, 1995

Felicia Vertin for the protester.
Virginia Kelly Stephens, Esq., Department of Housing and Urban Development, for the agency.
Jeanne W. Isrin, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Evaluation of protester's proposal was proper where record shows that it reasonably was downgraded in areas where it was deficient in terms of the solicitation requirements.

DECISION

Vertin Valuation Services Corporation (VVS) protests the evaluation of its proposal, and the award of a contract to Munizzo Appraisal Co., under request for proposals (RFP) No. H05R94059900000, issued by the Department of Housing and Urban Development (HUD) for appraisal services.¹

We deny the protest.

The RFP identified three geographic areas of Illinois (Areas A, B and C) for which HUD expected to require field reviews and thus, award contracts. For each area, the RFP contemplated the award of a requirements contract with fixed unit pricing for a 1-year base period with two 1-year

¹The contractor will perform on-site field reviews of single family appraisals completed by the HUD Fee Panel, Direct Endorsement Staff Appraisers, and appraisers appearing on the Field Office Appraiser Registry to determine accuracy and quality of those appraisals for the Chicago HUD Field Office.

options. The protest concerns the contract awarded for area A, which consists of seven counties of Illinois.²

Offerors were to submit a technical and management proposal and a business proposal containing all cost and pricing data. The solicitation set forth several technical evaluation factors, and provided that technical merit would be more significant than price and that award would be made based on the offer which represented the best value to the government. Fourteen proposals were received and scored as follows (on a 1,000 point scale):

<u>Offeror</u>	<u>Score</u>
Munizzo	970
Offeror	890
Offeror	745
Offeror	735
Offeror	720
Offeror	505
Offeror	475
VVS	435
Offeror	400
Offeror	270
Offeror	195

²VVS also protests the evaluation of its proposal for area B. This protest is untimely. Under our Bid Protest Regulations, a protest based on other than an apparent impropriety in the solicitation must be raised within 10 working days after the protester knows or should have known the basis for protest. 4 C.F.R. § 21.2(a)(2) (1995); Complere Inc., B-257946, Nov. 23, 1994, 94-2 CPD ¶ 207. The record contains a January 12, 1995, letter from VVS to HUD officials, which summarizes a January 10 debriefing of VVS with respect to the area B award, and clearly shows that VVS learned the details of the allegedly improper area B evaluation no later than the debriefing date. Thus, any protest of the evaluation had to be filed by January 25; VVS' February 3 protest therefore is untimely with respect to the area B award and will not be considered. Although VVS asserts that it was unfamiliar with our timeliness requirements, and faults HUD officials for allegedly failing to inform VVS of those requirements, this does not warrant waiving the requirements. VVS, like all potential contractors, was on constructive notice of our Regulations, as they are published in the Federal Register and Code of Federal Regulations. Keci Corp.--Recon., B-255193.2, May 25, 1994, 94-1 CPD ¶ 323. Furthermore, the RFP itself contained instructions regarding the filing of protests, and referenced Federal Acquisition Regulation (FAR) Part 33, which refers to our timeliness requirements.

Offeror	185
Offeror	0
Offeror	0

The contracting officer made a determination that the competitive range would consist of the five offerors' proposals with scores ranging from 720 through 970. The nine remaining proposals, including VVS', with scores ranging from 0 through 505 (435 for VVS), were eliminated from the competitive range as having no reasonable chance of award.³ Ultimately, Munizzo's offer was determined to afford the best value to the government, so award was made to Munizzo on January 11, 1995.

VVS complains that its proposal was wrongly evaluated; specifically, it seems to maintain that HUD's faulty evaluation of VVS' proposal under the corporate experience factor resulted in the unfair downgrading of VVS' proposal overall, and that VVS would have been in line for award had the evaluation been proper.

In reviewing a technical evaluation and competitive range determination, we will not independently evaluate proposals; rather, we will consider only whether the evaluation had a reasonable basis and was in accord with the listed evaluation criteria, and whether there were any violations of procurement statutes or regulations. InterAmerica Research Assocs., Inc., B-253698.2, Nov. 19, 1993, 93-2 CPD ¶ 288.

The evaluation of VVS' proposal, as corrected, was reasonable and consistent with the evaluation criteria.

Evaluation factor A pertained to demonstrated experience of the offeror, including appraisal experience pertaining to one-to-four family properties. VVS' corrected score (175 out of 250 possible points) reflected the finding that only one of the proposed certified appraisers had extensive appraisal experience (five appraisers were proposed--three certified and two licensed), the fact that VVS' president had no appraisal experience, and that the corporate history of the firm was apparently limited. We conclude that the

³Subsequent to the filing of the protest, HUD determined that VVS' score of 0 points under the corporate experience factor improperly had been based on the fact that the president of VVS is not an appraiser, ignoring the experience of appraisers employed by the firm. HUD raised VVS' score to 175 under the factor, which raised VVS' total score to 610. HUD states that this error did not prejudice VVS, as its proposal would have remained outside the competitive range even with this higher score.

agency reasonably downgraded the proposal based on these considerations; VVS argues that the impact of the initial evaluation error under factor A carried over to other factors. However, we find no indication that unwarranted weight was given to the president's lack of appraisal experience under other factors.

Factor B concerned demonstrated capacity to perform the services, which included an estimated 1,800 reviews per year (up to a maximum of 5,400 over the base and option years. VVS' proposal received 125 of 250 possible points based on HUD's conclusion that VVS' capacity was limited and posed a significant risk to successful performance of the contract. The evaluators noted that VVS employed only three certified appraisers, which was significant given that the RFP required that all reviews be performed by certified appraisers, and that VVS' president was not an appraiser and therefore not available to perform reviews. (In contrast, the awardee employs a significantly higher number of certified appraisers.) Furthermore, the proposal indicated that while only 90 percent of one appraiser's time would be allocated to the project at the outset, that individual would perform reviews, review all reviews before submitting documentation to HUD, and also conduct audits--including physical reinspection of properties--of up to a goal of 25 percent of the reviews; the evaluators thus questioned the extent to which the appraiser would be available to perform reviews. We find reasonable the agency's conclusion that VVS' proposal brought into question VVS' ability to perform the required number of reviews and necessary quality control work with the proposed staff. VVS maintains only generally that its capacity was adequate to perform the requirement; it presents no evidence or information showing that the agency's concerns were unfounded.'

Evaluation factor C dealt with the demonstrated capability of the offeror's key personnel and subcontractors to perform the contract. VVS' proposal received 160 out of 200 possible points. The downgrading was based on the agency's finding that only one of the three certified appraisers proposed by VVS had extensive appraisal experience; the president had no appraisal license or experience; the two other identified personnel were appraisers but lacked the required license to perform field reviews; no subcontractor resumes were provided to establish

'VVS' proposal did suggest that, if necessary, it could hire three subcontractor certified appraisers, but it did not include resumes for these individuals, so their impact on the firm's capacity could not be assessed; the RFP specifically required that resumes be provided for any proposed consultants or subcontractors.


an expanded capability; and VVS' president was proposed to assess problem areas and provide solutions, which the evaluators considered a questionable approach due to her lack of appraisal experience. These considerations clearly are related to key personnel capability, and provided a reasonable basis for the agency to downgrade the proposal. There is no basis for questioning the agency's decision to deduct 40 of the possible points due to these legitimate concerns.

Under evaluation factor D, the offeror was to demonstrate familiarity with and understanding of acceptable industry appraisal techniques and processing procedures under the HUD Single Family Mortgage Insurance Program. VVS' proposal was assigned only 60 of the 150 possible points based on perceived major deficiencies. In particular, the evaluators considered the proposal deficient in demonstrating an understanding of the work because, while the proposal provided an overview of what would happen once an assignment was received and a very brief description of how the field reviews would be performed, it did not discuss the appraisal process. The proposal omitted this information despite the clear requirement for it under the evaluation factor itself, plus the fact that section L, which specified what information was to be included in the technical and management proposal, specifically stated that offerors were to describe how the tasks of the statement of work would be accomplished, including time sequencing. Although VVS argues that familiarity with appraisal techniques is inherent to the qualifications of the certified appraisers, the agency legitimately could require that this familiarity actually be demonstrated in the proposal, especially where the solicitation included specific instructions to address the solicitation's mandatory and desirable requirements. Frequency Eng'g Labs., B-212516, Feb. 7, 1984, 84-1 CPD ¶ 151. In addition, the evaluators found that VVS' proposal did not demonstrate experience with HUD processing procedures; this was deemed to pose a significant risk to satisfactory performance because HUD single family appraisal requirements are significantly different from conventional appraisal procedures. Again, the deficiencies noted by the agency are reasonably related to the description of the evaluation factor, and thus provided a proper basis for downgrading VVS' proposal under this factor.

Evaluation factor E related to the offeror's management plan for timely and quality completion of field reviews. VVS' proposal received 90 out of 150 possible points. The evaluators found strengths in VVS' tracking plan for incoming/outgoing cases and its training plan for key personnel. However, VVS' proposal did not include a plan

for receipt of the work from, and delivery of reviews to, the agency. VVS argues that its two employees who cannot perform reviews could handle receipt and delivery of the work or, alternatively, that the function could be performed by standard delivery methods. Again, however, VVS' proposal did not address the performance of this function, and thus was properly downgraded on that basis. In addition, the evaluators were concerned about VVS' ability to meet the contract's 15-day performance and delivery requirement due to the limited number of staff available to perform substantive contract work. As we found with regard to the other factors, the evaluation under factor E reflects the content of VVS' proposal, and is consistent with the description of the evaluation factor. It is our conclusion, therefore, that the evaluation as a whole was proper.⁵

The protest is denied.


for Robert P. Murphy
General Counsel

⁵VVS suggests that its low price entitled it to further consideration. However, technical considerations were more important than price under the RFP and, as we conclude above, the agency properly found VVS' offer outside the competitive range.